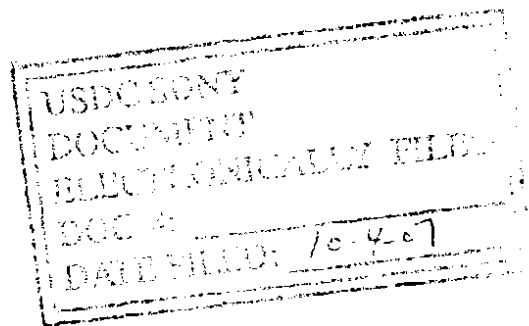


*ROSEN*

Norman C. Kleinberg (NK 2735)  
Theodore V. H. Mayer (TM 9748)  
William J. Beausoleil (WB 5296)  
HUGHES HUBBARD & REED LLP  
One Battery Park Plaza  
New York, New York 10004-1482  
(212) 837-6000



*Attorneys for Defendant Merck & Co., Inc.*

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----x	
IN RE:	:
Fosamax Products Liability Litigation	:
-----x	:
<i>This Document Relates to:</i>	:
Mary MacKay	:
v. Merck & Co., Inc.	:
	:
Case No: 1:07-cv-6754-JFK	:
-----x	:

1:06-md-1789 (JFK)

**STIPULATION AND ORDER OF DISMISSAL WITHOUT PREJUDICE**

IT IS HEREBY STIPULATED AND AGREED by and between Plaintiff Mary MacKay and Defendant Merck & Co., Inc., ("Merck") through their respective undersigned counsel, as follows:

1. This case having been resolved upon the agreement of Plaintiff to voluntarily dismiss without prejudice her claims against Merck in the above-captioned case and the agreement of Merck not to seek from Plaintiff its fees and costs, this case is hereby dismissed without prejudice pursuant to Fed. R. Civ. P. 41(a)(1)(ii).
2. Plaintiff further agrees to re-file any suit based on any similar claims related to Fosamax against Merck, any of Merck's subsidiaries, agents, distributors, employees, sales representatives, or against any pharmacy in this Court.
3. Each party is to bear its own costs and attorneys' fees.

Dated: <sup>October</sup>~~September~~ \_\_, 2007

REICH & BINSTOCK, LLP

HUGHES HUBBARD & REED LLP

By 

Deborah L. Ziegler  
4265 San Felipe Blvd., Suite 1000  
Houston, Texas 77027  
(713) 622-7271

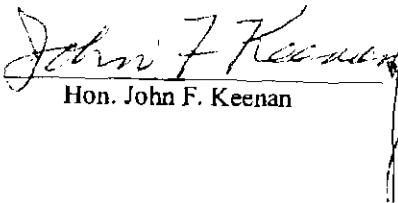
By 

Theodore V. H. Mayer (TM 9748)  
One Battery Park Plaza  
New York, New York 10004  
(212) 837-6888

*Attorneys for Plaintiff*

*Attorneys for Defendant Merck & Co, Inc.*

SO ORDERED:

  
Hon. John F. Keenan

10/4/07